

Title 1: Secretary of State

Part 2: Organization and Executive Policies and Procedures

Part 2 Chapter 1: Organization of the Secretary of State's Office

Rule 1.1 Repeal of Prior Rules. Upon their effective date, these rules and regulations supersede and repeal all previous rules and regulations promulgated under the Administrative Procedures Act and adopted as Title 01 – Administrative Law and Secretary of State Part II Secretary of State.

Source: *Miss. Code Ann.* § 25-43-2.104.

Rule 1.2 Chapter Content. In accordance with Section 25-43-2.104(a) of the Mississippi Administrative Procedures Act, this chapter describes the Secretary of State's duties and responsibilities, the organization of the Office of the Secretary of State ("SOS"), its methods of operation, and how the public can contact the agency to make submissions or requests.

Source: *Miss. Code Ann.* § 25-43-2.104.

Rule 1.3 Secretary of State Duties. The Secretary of State is an officer of the executive branch of state government elected by the people pursuant to Article 5, Section 133 of the Mississippi Constitution. The Secretary of State is the keeper of the Capitol, registrar of all official acts of the Governor and performs other duties as required by various statutes. There are specific statutory duties in the following general areas: elections, public lands, business, regulation, charities, securities, and publications.

Source: *Miss. Code Ann.* § 25-43-2.104.

Rule 1.4 Secretary of State's Office Organization. The Secretary of State's Office consists of Assistant Secretaries of State and other staff who assist the Secretary in carrying out the responsibilities of the Office. The Secretary of State's Office is divided into the following operating divisions:

- A. Support Services
 - 1. Executive
 - 2. Human Resources
 - 3. Finance
 - 4. Technology Services
- B. Business Services and Regulation
 - 1. Corporate Filings and Customer Service
 - a. Business Entity Formation
 - b. Uniform Commercial Code Filing
 - c. Trademarks
 - 2. Regulation and Enforcement
 - a. Administrative Procedures Act Regulation
 - b. Pre-need Funeral Service and Merchandise Registration Act Regulation

- c. Scrap Metal Dealer Regulation
 - d. Perpetual Care Cemeteries Regulation
 - e. Athlete Agent Regulation
 - f. Notary Commissions
- C. Policy and Research
- D. Securities
- E. Charities
- F. Communications
- G. Publications
- H. Elections
 - 1. Campaign Finance
 - 2. Lobbying
 - 3. Elections Compliance
 - 4. Statewide Elections Management
- I. Public Lands
 - 1. Agency Lands
 - 2. Tax Forfeited Lands
 - 3. Sixteenth Section Lands
 - 4. Public Trust Tidelands
- J. External Affairs

The SOS is primarily located in the Heber Ladner Building, 401 Mississippi Street, Jackson, MS 39201 and at Capital Towers at 125 S. Congress Street, Jackson, MS 39201. The SOS also has multiple agency satellite offices. Information regarding the physical address of agency satellite offices is provided at www.sos.ms.gov.

Source: *Miss. Code Ann.* § 25-43-2.104.

Rule 1.5 Delegation of Authority. Authority to act on behalf of the Secretary of State is delegated to the following positions:

- A. Chief of Staff serves as the Deputy Secretary of State and is delegated authority to act for the Secretary on all matters.
- B. Assistant Secretaries of State are delegated authority to act for the Secretary of State on all matters within their assigned area of responsibility.

Source: *Miss. Code Ann.* § 25-43-2.104.

Rule 1.6 Contact Information. A current listing of contact information for the SOS may be found at www.sos.ms.gov or obtained by calling (601)359-1350.

Source: *Miss. Code Ann.* § 25-43-2.104.

Part 2 Chapter 2: Rulemaking Oral Proceedings

Rule 2.1 Application of Chapter. This chapter applies to all oral proceedings held for the purpose of providing the public an opportunity to make oral presentations or written input on

proposed new rules, amendments to rules, and proposed repeal of existing rules before the Secretary of State's Office (SOS) pursuant to the Administrative Procedures Act.

Source: *Miss. Code Ann.* § 25-43-2.104.

Rule 2.2 Request for Oral Proceeding. When a political subdivision, an agency, or a citizen requests an oral proceeding in regard to a proposed rule adoption, the requestor must submit a printed, typewritten, or legibly handwritten request. Pursuant to Section 25-43-3.104, when an oral proceeding has not been scheduled by the SOS, an oral proceeding will be scheduled when a written request is submitted by a political subdivision, an agency, or ten (10) or more persons.

- A. Each request must be submitted on 8-1/2" x 11" white paper.
- B. The request may be in the form of a letter addressed to the Secretary of State or in the form of a pleading as if filed with a court.
- C. Each request must include the full name, telephone numbers, and mailing address of the requestor(s).
- D. All requests shall be signed by the person filing the request, unless represented by an attorney, in which case the attorney may sign the request.

Source: *Miss. Code Ann.* § 25-43-2.104 and -3.104.

Rule 2.3 Notice of Oral Proceeding. Notice of the date, time, and place of all oral proceedings shall be filed with the SOS, Business Services and Regulation Division for publication in the Administrative Bulletin. The Secretary of State shall provide notice of oral proceedings to each requestor. The oral proceedings will be scheduled no earlier than twenty (20) days from the filing of the notice with the Secretary of State. The Secretary of State, Assistant Secretary of State, or designee who is familiar with the substance of the proposed rule, shall preside at the oral proceeding on a proposed rule.

Source: *Miss. Code Ann.* § 25-43-2.104.

Rule 2.4 Public Participation Guidelines. Public participation shall be permitted at oral proceedings in accordance with the following:

- A. At an oral proceeding on a proposed rule, persons may make statements and present documentary and physical submissions.
- B. Persons wishing to make oral presentations at such a proceeding shall notify the SOS at least three (3) business days prior to the proceeding and indicate the general subject of their presentations. The presiding officer in his or her discretion may allow individuals to participate that have not contacted the SOS prior to the proceeding.
- C. At the proceeding, those who participate shall indicate their names and addresses, identify any persons or organizations they may represent, and provide any other information relating to their participation deemed appropriate by the presiding officer.
- D. The presiding officer may place time limitations on individual presentations

when necessary to assure the orderly and expeditious conduct of the oral proceeding. To encourage joint presentations and to avoid repetition, additional time may be provided for persons whose presentations represent the views of other individuals as well as their own views.

- E. Persons making presentations are encouraged to avoid restating matters that have already been submitted in writing. Written materials may, however, be submitted at the oral proceeding.
- F. Where time permits and to facilitate the exchange of information, the presiding officer may open the floor to questions or general discussion. The presiding officer may question participants and permit the questioning of participants by other participants about any matter relating to that rulemaking proceeding, including any prior written submissions made by those participants in that proceeding. No participant shall be required to answer any question.

Source: *Miss. Code Ann.* § 25-43-2.104.

Rule 2.5 Submissions and Records. Physical and Documentary Submissions presented by participants in an oral proceeding shall be submitted to the presiding officer. Such submissions become the property of the Secretary of State, part of the rulemaking record, and are subject to the Secretary of State's public records request procedure. The SOS may record oral proceedings by stenographic or electronic means.

Source: *Miss. Code Ann.* § 25-43-2.104.

Part 2 Chapter 3: Declaratory Opinions

Rule 3.1 Application of Chapter. This chapter sets forth the Secretary of State's rules governing the form, content, and filing of requests for declaratory opinions, the procedural rights of persons in relation to the written requests, and the SOS procedures regarding the disposition of requests as required by Section 25-43-2.103.

Source: *Miss. Code Ann.* § 25-43-2.104.

Rule 3.2 Scope of Declaratory Opinions. The Secretary of State will issue declaratory opinions regarding the applicability to specified facts of:

- A. a statute administered or enforceable by the Secretary of State,
- B. a rule promulgated by the Secretary of State, or
- C. an order issued by the Secretary of State.

Source: *Miss. Code Ann.* § 25-43-2.104.

Rule 3.3 Scope of Declaratory Opinion Request. A request must be limited to a single transaction or occurrence.

Source: *Miss. Code Ann.* § 25-43-2.104.

Rule 3.4 How to Submit Requests. When a person with substantial interest, as required by Section 25-43-2.103 of the Administrative Procedures Act, requests a declaratory opinion, the person must submit a printed, typewritten, or legibly handwritten request.

- A. Each request must be submitted on 8-1/2" x 11" white paper.
- B. The request may be in the form of a letter addressed to the Secretary of State or in the form of a pleading as if filed with a court. It must also specify to which division of the SOS the request is addressed.
- C. Each request must include the full name, telephone number, and mailing address of the requestor(s).
- D. All requests shall be signed by the person filing the request, unless represented by an attorney, in which case the attorney may sign the request.
- E. Each request must clearly state that it is a request for a declaratory opinion.

Source: *Miss. Code Ann.* § 25-43-2.104.

Rule 3.5 Signature Attestation. Any party who signs the request shall attest that the request complies with the requirements set forth in these rules, including but not limited to a full, complete, and accurate statement of relevant facts and that there are no related proceedings pending before any agency, administrative, or judicial tribunal.

Source: *Miss. Code Ann.* § 25-43-2.104.

Rule 3.6 Request Content Requirement. Each request must contain the following:

- A. A clear identification of the statute, rule, or order at issue;
- B. The question for the declaratory opinion;
- C. A clear and concise statement of all facts relevant to the question presented;
- D. The identity of all other known persons involved in or impacted by the facts giving rise to the request including their relationship to the facts, and their name, mailing address, and telephone number;
- E. A statement sufficient to show that the requestor has a substantial interest in the subject matter of the request.

Source: *Miss. Code Ann.* § 25-43-2.104.

Rule 3.7 Reasons for Refusal of Declaratory Opinion Request. The Secretary of State may, for good cause, refuse to issue a declaratory opinion. The circumstances in which declaratory opinions will not be issued include, but are not necessarily limited to:

- A. The matter is outside the primary jurisdiction of the Secretary of State;
- B. Lack of clarity concerning the question presented;
- C. There is pending or anticipated litigation, administrative action or anticipated

- administrative action, or other adjudication which may either answer the question presented by the request or otherwise make an answer unnecessary;
- D. The statute, rule, or order on which a declaratory opinion is sought is clear and not in need of interpretation to answer the question presented by the request;
 - E. The facts presented in the request are not sufficient to answer the question presented;
 - F. The request fails to contain information required by these rules or the requestor failed to follow the procedure set forth in these rules;
 - G. The request seeks to resolve issues which have become moot or are abstract or hypothetical such that the requestor is not substantially affected by the rule, statute, or order on which a declaratory opinion is sought;
 - H. No controversy exists or is certain to arise which raises a question concerning the application of the statute, rule, or order;
 - I. The question presented by the request concerns the legal validity of a statute, rule, or order;
 - J. The request is not based upon facts calculated to aid in the planning of future conduct, but is, instead, based on past conduct in an effort to establish the effect of that conduct;
 - K. No clear answer is determinable;
 - L. The question presented by the request involves the application of a criminal statute or sets forth facts which may constitute a crime;
 - M. The answer to the question presented would require the disclosure of information which is privileged or otherwise protected by law from disclosure;
 - N. The question is currently the subject of an Attorney General's opinion request;
 - O. The question has been answered by an Attorney General's opinion;
 - P. One or more requestors have standing to seek an Attorney General's opinion on the proffered question;
 - Q. A similar request is pending before this agency, or any other agency, or a proceeding is pending on the same subject matter before any agency, administrative or judicial tribunal, or where such an opinion would constitute the unauthorized practice of law; or
 - R. The question involves eligibility for a license, permit, certificate or other approval by the Secretary of State or some other agency and there is a statutory or regulatory application process by which eligibility for said license, permit, or certificate or other approval may be determined.

Source: *Miss. Code Ann.* § 25-43-2.104.

Rule 3.8 Agency Response. Within forty-five (45) days after the receipt of a request for a

declaratory opinion which complies with the requirements of these rules, the Secretary of State shall, in writing:

- A. Issue an opinion declaring the applicability of the statute, rule, or order to the specified circumstances;
- B. Agree to issue a declaratory opinion by a specified time but no later than ninety (90) days after receipt of the written request; or
- C. Decline to issue a declaratory opinion, stating the reasons for its action.

The forty-five (45) day period shall begin on the first business day on or after which the request is received by the Secretary of State.

Source: *Miss. Code Ann.* § 25-43-2.104.

Rule 3.9 Availability of Declaratory Opinions and Requests for Opinions. Declaratory opinions and requests for declaratory opinions shall be available for public inspection and copying at the expense of the viewer during normal business hours. All declaratory opinions and requests shall be indexed by requestor name, subject, and date of issue. Declaratory opinions and requests which contain information which is confidential or exempt from disclosure under the Mississippi Public Records Act or other laws shall be exempt from this requirement and shall remain confidential.

Source: *Miss. Code Ann.* § 25-43-2.104.

Part 2 Chapter 4: Public Records Procedure: In compliance with the Mississippi Public Records Act of 1983, Mississippi Code Section 25-61-1, *et. seq.* and the Mississippi Ethics Commission's Model for Public Records Rules, this regulation is adopted by the Office of the Secretary of State ("SOS"). All records and portions of records not exempt from disclosure will be made available in accordance with the procedures outlined below.

Rule 4.1 Scope. This rule establishes procedures and fees associated with all public requests for copies and/or inspection of public documents.

A. Submission of Requests.

1. All requests for information should be submitted in writing to:

Office of the Secretary of State
Attention: Public Records Office
P.O. Box 136 (mailing address)
401 Mississippi Street (physical address)
Jackson, MS 39201
PublicRecords@sos.ms.gov

2. Requests may be mailed, emailed to publicrecords@sos.ms.gov, or hand delivered to the physical address listed above.
3. No verbal or telephone request can be accepted without written request received

in accordance with subparagraphs 1 or 2 above.

4. The request should specifically outline the records that are being requested, provide the name of the requestor, address of the requestor, email (if applicable) and telephone number of the requesting entity/individual and must be signed by the requesting party.
5. If a request is not directed through the channels provided in the manner described above, official receipt of the public records request may be delayed as it may take additional time to route your request to the correct SOS division for processing.

B. Timetable for processing.

The SOS will strive to respond to each request within seven (7) working days after the request is received. An acknowledgement of the request will be made in one or more of the following ways: 1) provide a reasonable cost estimate associated with the requested records, 2) submission of responsive records or make responsive records available for inspection/copying, 3) provide a reasonable estimate of when responsive records will be available, 4) if the request is unclear or does not sufficiently identify the requested records, a request for clarification from the requestor, or 5) deny the request. In the event of a denial for all or part of the request, the SOS will provide an explanation of the denial to the requestor in writing.

The day the request was initially received by the SOS will not be included in the seven (7) working day response period referenced above, and the first day of the response period will begin on the next working day. If the requested information is unable to be produced by the seventh (7th) working day after the request is made, the SOS will provide a written explanation (which may be provided by email) to the requestor indicating why the document cannot be produced during that timeframe. Compilation of documents will not begin until timely payment is received. Delay by the requestor in the payment of an estimated fee may result in the delay of delivery of the requested documents. The SOS will provide assistance to the requestor to the best of its ability; to ensure that public records are protected from damage or disorganization; and to prevent the fulfillment of requests from causing excessive interference with essential functions of the SOS.

Please note that the following types of public records requests usually require additional research and staff time, which can result in significant costs associated with fulfilling the request, as well as an increase in the number of days of response time: (1) requests for very large volumes of material (2) requests that are overly broad or do not reasonably describe the records being requested (3) requests that are unspecific in scope (4) requests for information that have already been archived (5) requests for documents that are unusual in size.

During a state of emergency, the timetable for processing may be delayed. In that instance, public records requests will be handled as soon as practicably possible.

C. Exempt Documents.

The Public Records Act, as well as other statutes and court decisions, provide that a number of records are exempt from public inspection and copying. In addition, other statutes, or rules of law, such as various privacy restrictions, may prohibit disclosure. As stated above, some records are exempt from disclosure, in whole or in part, and may require redaction of information, which may include, but is not limited to, certain sensitive personal information, including social security numbers and dates of birth; certain confidential commercial, proprietary, or financial information; mailing addresses, email addresses and telephone numbers of qualifying candidates; residential addresses of certain individuals; personnel records; attorney communications; and work products of attorneys. This is not an exhaustive list. Records subject to redaction or exemption will be reviewed on a case-by-case basis. Requestors should be aware of the following exemptions, outside of the Public Records Act, that restrict the availability of some documents possessed by the SOS for inspection and copying (this is also not intended to be an exhaustive list):

1. Appraisal records exempt from access, see § 31-1-27;
2. Attorney work product and attorney-client privilege, examination, exemption see § 25-1-102;
3. Charitable organizations, registration information, exemption from public access, see § 79-11-527;
4. Environmental self-evaluation reports, public records act, exemption, see § 49-2-71;
5. Individual tax records in possession of public body, exemption from public access requirements, see § 27-3-77;
6. Licensure application and examination records, exemption from Public Records Act, see § 73-52-1;
7. Personnel files exempt from examination, see § 25-1-100;
8. Public records and trade secrets, proprietary commercial and financial information, exemption from public access, see § 79-23-1;
9. Records exempt from public access, see § 39-7-41;
10. Social security numbers; disclosure safeguards, see § 25-1-111.

D. Third Party Information.

1. Confidential or exemption claims. When any person files or submits documents with the SOS which the filer contends are exempt from disclosure under the Public Records Act, the filer shall provide a written statement at the time of filing which shall describe the documents filed and which shall fully explain why the documents are designated as exempt from disclosure and must specifically cite any statute or other legal authority in support of such designation. Such written statement shall itself be a public record subject to disclosure.
2. Clear Designation. Any document filed with the SOS which contains trade secrets or confidential information or financial information subject to the protection of any applicable law or court decision shall be clearly designated as such by the filer on its face and an accompanying cover letter at the time of filing and shall be placed in an envelope other than white. Each page of each document

shall be marked confidential. Upon request to inspect or copy any document so designated, the SOS shall notify the person who filed the document of the request. Twenty-one (21) days after such notice, the document will be made available for public inspection or copying unless the filer shall have obtained a court order protecting such records as confidential pursuant to Miss. Code Ann. Section 25-61-9.

3. Prior to Filing. Any person filing documents with the SOS shall, prior to filing, redact from the documents any social security numbers, account numbers or dates of birth not required to be listed. The SOS shall determine on a case-by-case basis whether similar information may be redacted by the filer to prevent identity theft. In no event will the SOS bear any responsibility for a filer's failure to redact such information which leads to identity theft or other crime or loss.

E. Assessment of Costs to the Requestor.

Payment for information requested must be made in advance of receipt of documents and must be sufficient to cover the actual costs for the SOS to furnish the information. Such costs include, but are not limited to, staff time to evaluate the request (including costs associated with legal advice by outside attorneys), to retrieve any relevant files, to organize the information, to notify any Third Parties, to develop a cost estimate and schedule, to monitor and/or assist inspection of records, to reproduce the material (if necessary), and to deliver the responsive records.

1. **No cash, credit or debit cards, or personal checks can be accepted.** Money orders, certified checks, or corporate checks are accepted.
2. The SOS will notify the requestor of the costs to obtain the information prior to processing the request. Compilation of documents will not begin until timely payment is received. By delaying the payment of the estimated fee, the requestor acknowledges there may be a delay in the delivery of the requested documents. If timely payment is not received within thirty (30) days, the SOS will proceed no further with the request. If, at a later date, the requestor decides to proceed with the request, he/she should submit a new request. No request will be processed until after payment is received and funds are verified.
3. If the actual cost is higher than the estimate, the requestor will be required to pay the difference before receiving the information. If the actual cost is lower than the estimate, the SOS will refund the difference.

F. Requests for Standard Documents. The SOS has established a Schedule of Standard Documents and Fees for frequently requested information. The list of these documents and associated costs are provided in Part 2 Chapter 5 of this regulation. Should a requestor require a paper copy of these documents, he/she must initiate a request as described in this document and submit the fee listed on the Schedule of Standard Documents.

G. Requests for Special Documents. Upon receipt of a request for any document not included on the Schedule of Standard Documents and Fees, the staff of the SOS will evaluate the request, research the files and other sources to determine the availability

and format in which the information is stored, and estimate the actual costs to furnish the requested information.

1. An estimated cost will be provided to the requestor based on the volume of information, the format in which the information is stored and requested, whether or not third-party information has been requested, and whether any fees are applied as set forth in Rule 5.2, *General Fees*. The requestor may submit payment for processing of the request, amend the request, and/or withdraw the request. The requestor should submit written notice of his/her intent to either proceed or withdraw the request.
- H. **Requests for Document Inspections.** Inspection of public records must be conducted at the SOS and during normal hours of operation (Monday through Friday from 8:00 a.m. to 5:00 p.m., excluding state holidays). Records must be inspected at the SOS and no requestor, or his designee, may remove a public record from the SOS designated inspection area or disassemble or alter any public record. The requestor shall indicate which records he/she wishes to copy. The time, place and manner of inspection and copying of records will not be allowed to interfere with other essential duties of the SOS. The requestor will be billed for the total amount of time expended by employees of the SOS assisting with and/or monitoring the inspection of documents. Additional fees incident to document production may be assessed.
- I. **Public Information via the Internet.** Some information pertaining to the SOS is available free of charge on the SOS website at www.sos.ms.gov. Requestors are encouraged to view the documents available on the SOS website prior to submitting a public records request.
- J. **Closure of a Request.** If a requestor either withdraws his/her request, fails to fulfill his/her obligations to inspect the records or fails to pay the deposit/cost estimate or payment in full for the requested records within thirty (30) calendar days of the submission of the request, the SOS will close the request and notify the requestor of such closure via email.
- K. **Requests for Electronic Records.** The process for requesting electronic public records is the same as provided for requesting paper public records. When a requestor requests records in an electronic format, the SOS will provide the nonexempt records or portions of such records that are reasonably locatable in an electronic format that is used by the public body and is generally commercially available, or in a format that is reasonably translatable from the format in which the public body keeps the record. Costs associated with providing electronic records are governed by Part 2 Chapter 5 of this regulation. With the consent of the requestor, the SOS may provide customized access to a database if the record is not reasonably locatable or not reasonably translatable into the format requested. The SOS may charge the actual cost for such customized access.
- L. **Later Discovered Documents.** If, after the SOS has informed the requestor that it has provided all available records, the SOS becomes aware of additional responsive documents existing at the time of the request, it will promptly inform the requestor of the additional documents and will provide them to the requestor.
- M. **Records of Other Governmental Agencies or Entities.** In instances where a public records request is submitted to the SOS seeking records that are primarily the

responsibility of another governmental agency/entity, the following procedures will be followed:

1. If a request is submitted to the SOS for current records that are the primary responsibility of another governmental agency/entity, SOS will refer the request to the pertinent governmental agency/entity for appropriate response.
2. SOS will advise the requestor that the application has been forwarded to the responsible governmental agency/entity and, unless indicated otherwise by the requestor, will consider the request withdrawn once forwarded and close the public records request.
3. If, after having been notified that the SOS is not the agency primarily responsible for the records sought, the requestor desires to continue with the filing of a public records request to the SOS for any responsive records it may possess, the SOS will process the request accordingly.

Source: *Miss. Code Ann. § 25-61-1, et. seq.*

Rule 4.2 Review of Denials.

- A. Review by the Ethics Commission. Pursuant to Miss. Code Ann. § 25-61-13, if the SOS denies a requestor access to public records, the requestor may ask the Ethics Commission to review the matter. The Ethics Commission has adopted rules on such requests. They may be found at www.ethics.state.ms.us.
- B. Judicial review. Any person whose request for public records was denied may institute a suit in the chancery court of Hinds County, seeking to reverse the denial, as set forth in Miss. Code Ann. § 25-61-13.

Source: *Miss. Code Ann. § 25-61-1, et. seq*

Part 2 Chapter 5: Fees

Rule 5.1 Standard Documents and Fees.*

- A. For each application filed for the purchase of tax-forfeited property: \$2.50
- B. For copy of patent: \$2.00
- C. For certificate from 1875 to date, certifying each and every sale and disposition by the state: \$5.00
- D. For certificate of land records information: \$2.00
- E. For copy of any land record, not certified: \$1.00

- F. Photostat copies of plats and field notes, as follows:
1. Size of Sheet Per Page
 - a. 8 ½ " x 11" and under: \$0.50
 - b. Over 8 ½ " x 11" and not more than 8 ½ " x 14": \$0.60
 - c. Over 8 ½ " x 14" and not more than 18" x 24": \$1.20
 - d. All over 18" x 24": \$2.00
- G. For certified copy of a business filing. \$25.00

* Costs above reflect charges for standard documents stored on-site or electronically. Documents requiring offsite storage search and delivery may incur additional costs.

Source: *Miss. Admin. Code* 1-10-7.2; *Miss. Code Ann.* § 25-7-85; § 25-61-7.

Rule 5.2 General Fees.

- A. Copies of other materials produced on 8 ½" x 11" cost \$0.15 per page (additional costs may apply for larger or special paper).
- B. A certified copy of a requested document costs \$1.00.
- C. Additional fees may apply for searching, researching, reviewing and conducting a legal review of the requested documents, and redacting information, if necessary. Charges shall be based upon the hourly salary of the lowest paid employee of the SOS qualified and available to do the job.
- D. All other costs or fees which would be incurred in responding to a request, including but not limited to postage, UPS, Federal Express, temporary agency personnel, and offsite storage search and delivery, will be charged at the cost billed to the SOS.
- E. If electronic copies are requested and the documents are available electronically, copies will be distributed to the requestor on an electronic disc or by other available electronic format. Search and/or research costs associated with the request may apply. See Rule 4.1(K) above.
- F. The Agency may waive any fee described herein at the discretion of the Secretary. There will be no charge associated with emailing responsive records to a requestor unless another cost applies such as a scanning fee or system costs allowed under Section 25-61-7(2) of the Miss. Code.
- G. Charges for searching, reviewing, and redacting are limited to the actual cost of searching for and reviewing and, if necessary, redacting exempt information from public records. The cost shall be based upon the hourly rate of compensation for the lowest paid agency employee qualified to perform the task, which shall be multiplied by the actual time to complete the task.
- H. Official representatives of public bodies, as defined in the Public Records Act, shall be entitled to reasonable copies of such records at no charge.

Source: *Miss. Code Ann.* § 25-61-7.

Rule 5.3 Repeal of previous rules and regulations.

- A. All previously promulgated rules or regulations which are inconsistent with any provisions set forth above are hereby repealed.
- B. Conflicts between this regulation and existing statutes related to access to Agency records and fees charged by individual work areas of the Agency shall be resolved in favor of the existing statute.

Rule 5.4 Review of denials.

- A. Review by the Mississippi Ethics Commission. Pursuant to Section 25-61-13 of the Miss. Code, if the SOS denies a requestor access to public records, the requestor may ask the Mississippi Ethics Commission to review the matter. The Mississippi Ethics Commission has adopted rules on such requests. Those rules may be found at www.ethics.ms.gov.
- B. Judicial review. Any person whose request for public records was denied may institute a suit in the chancery court of Hinds County, seeking to reverse the denial, as set forth in Section 25-61-13.

Source: *Miss. Code Ann.* § 25-61-7, *et. seq.*

Title 1: Secretary of State

Part 2: Organization and Executive Policies and Procedures

Part 2 Chapter 1: Organization of the Secretary of State's Office

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Source: *Miss. Code Ann. § 25-43-2.104 (Rev. 2006).*

Rule 1.2 Chapter Content. In accordance with Section 25-43-2.104(a) of the Mississippi Administrative Procedures Act, this chapter describes the Secretary of State's duties and responsibilities, the organization of the Office of the Secretary of State's Office ("SOS"), its methods of operation, and how the public can contact the agency to make submissions or requests.

Source: *Miss. Code Ann. § 25-43-2.104 (Rev. 2006).*

Rule 1.3 Secretary of State Duties. The Secretary of State is an officer of the executive branch of state government elected by the people pursuant to Article 5, Section 133 of the Mississippi Constitution. The Secretary of State is the keeper of the Capitol, registrar of all official acts of the Governor and performs other duties as required by various statutes. There are specific statutory duties in the following general areas: elections, public lands, business, regulation, charities, securities, and publications.

Source: *Miss. Code Ann. § 25-43-2.104 (Rev. 2006).*

Rule 1.4 Secretary of State's Office Organization. The Secretary of State's Office consists of Assistant Secretaries of State and other staff who assist the Secretary in carrying out the responsibilities of the Office. The Secretary of State's Office is divided into the following operating divisions:

- A. Administration Support Services
 - 1. ~~Personnel~~ Executive
 - 2. ~~Finance~~ Human Resources
 - 3. ~~Procurement~~ Finance
 - 4. ~~Information~~ Technology Services
- B. Business Services and Regulation
 - 1. Corporate Filings and Customer Service
 - a. Business Entity Formation
 - b. Uniform Commercial Code Filing
 - c. ~~Notary Commissions~~
 - d. ~~Customer Service~~
 - e. c. Trademarks

2. Regulation and Enforcement
 - a. Administrative Procedures Act Regulation
 - b. Pre-need Funeral Service and Merchandise Registration Act Regulation
 - c. Scrap Metal Dealer Regulation
 - d. Perpetual Care Cemeteries Regulation
 - e. Athlete Agent Regulation
 - f. Notary Commissions
- C. Policy and Research
- ~~D. Regulation and Enforcement~~
 - ~~1. Administrative Procedures Act Regulation~~
 - ~~2. Pre-need Funeral Service and Merchandise Registration Act Regulation~~
 - ~~3. Scrap Metal Dealer Regulation~~
 - ~~4. Perpetual Care Cemeteries Regulation~~
 - ~~5. Athlete Agent Regulation~~
- D. Securities
 - ~~a. Securities Regulation~~
- E. Charities
 - ~~a. Charities Regulation~~
- F. Communications ~~Education~~
~~and Publications~~
 - ~~a. Education and Marketing~~
 - ~~b. Publications~~
- G. Publications
- H. Elections
 1. Campaign Finance
 2. Lobbying
 3. Elections Compliance
 - ~~i. Candidate Qualification~~
 - ~~ii. Certified Results~~
 4. ~~HAVA Compliance~~ Statewide Elections Management
 - ~~5. Statewide Elections Management~~
 5. ~~Voting Systems~~
- I. Public Lands
 1. Agency Lands
 2. Tax Forfeited Lands
 3. Sixteenth Section Lands
 4. Public Trust Tidelands
- J. External Affairs

The SOS is primarily located in the Heber Ladner Building, 401 Mississippi Street, Jackson, MS 39201 and at Capital Towers at 125 S. Congress Street, Jackson, MS 39201. The SOS also has multiple agency satellite offices. Information regarding the physical address of agency satellite offices is provided at www.sos.ms.gov.

Source: *Miss. Code Ann.* § 25-43-2.104 (Rev. 2006).

Rule 1.5 Delegation of Authority. Authority to act on behalf of the Secretary of State is delegated to the following positions:

- A. Chief of Staff serves as the Deputy Secretary of State and is delegated authority to act for the Secretary on all matters.
- B. Assistant Secretaries of State are delegated authority to act for the Secretary of State on all matters within their assigned area of responsibility.

Source: *Miss. Code Ann.* § 25-43-2.104 (~~Rev. 2006~~).

Rule 1.6 Contact Information. A current listing of contact information for the ~~Secretary of State's Office~~ SOS may be found at www.sos.ms.gov or obtained by calling (601) 359-1350.

Source: *Miss. Code Ann.* § 25-43-2.104 (~~Rev. 2006~~).

Part 2 Chapter 2: Rulemaking Oral Proceedings

Rule 2.1 Application of Chapter. This chapter applies to all oral proceedings held for the purpose of providing the public an opportunity to make oral presentations or written input on proposed new rules, amendments to rules, and proposed repeal of existing rules before the Secretary of State's Office (SOS) pursuant to the Administrative Procedures Act.

Source: *Miss. Code Ann.* § 25-43-2.104 (~~Rev. 2006~~).

Rule 2.2 Request for Oral Proceeding. When a political subdivision, an agency, or a citizen requests an oral proceeding in regard to a proposed rule adoption, the requestor must submit a printed, typewritten, or legibly handwritten request. Pursuant to ~~Miss. Code Ann. Section 25-43-3.104~~, when an oral proceeding has not been scheduled by the ~~Secretary of State's Office~~ SOS, an oral proceeding will be scheduled when a written request is submitted by a political subdivision, an agency, or ten (10) or more persons.

- A. Each request must be submitted on 8-1/2" x 11" white paper.
- B. The request may be in the form of a letter addressed to the Secretary of State or in the form of a pleading as if filed with a court.
- C. Each request must include the full name, telephone numbers, and mailing address of the requestor(s).
- D. All requests shall be signed by the person filing the request, unless represented by an attorney, in which case the attorney may sign the request.

Source: *Miss. Code Ann.* § 25-43-2.104 and -3.104 (~~Rev. 2006~~).

Rule 2.3 Notice of Oral Proceeding. Notice of the date, time, and place of all oral proceedings shall be filed with the ~~Secretary of State's Office~~ SOS, ~~Regulation and Enforcement~~ Business Services and Regulation Division for publication in the Administrative Bulletin. The Secretary of State shall provide notice of oral proceedings to each requestor. The oral proceedings will be scheduled no earlier than twenty (20) days from the filing of the notice with the Secretary of State. The Secretary of State, Assistant Secretary of State, or designee who is familiar with the substance of the proposed rule, shall preside at the oral proceeding on a proposed rule.

Source: *Miss. Code Ann. § 25-43-2.104 (Rev. 2006)*.

Rule 2.4 Public Participation Guidelines. Public participation shall be permitted at oral proceedings in accordance with the following:

- A. At an oral proceeding on a proposed rule, persons may make statements and present documentary and physical submissions.
- B. Persons wishing to make oral presentations at such a proceeding shall notify the ~~Secretary of State's Office (SOS)~~ at least three (3) business days prior to the proceeding and indicate the general subject of their presentations. The presiding officer in his or her discretion may allow individuals to participate that have not contacted the ~~Secretary of State's Office~~ SOS prior to the proceeding.
- C. At the proceeding, those who participate shall indicate their names and addresses, identify any persons or organizations they may represent, and provide any other information relating to their participation deemed appropriate by the presiding officer.
- D. The presiding officer may place time limitations on individual presentations when necessary to assure the orderly and expeditious conduct of the oral proceeding. To encourage joint presentations and to avoid repetition, additional time may be provided for persons whose presentations represent the views of other individuals as well as their own ~~views~~.
- E. Persons making presentations are encouraged to avoid restating matters that have already been submitted in writing. Written materials may, however, be submitted at the oral proceeding.
- F. Where time permits and to facilitate the exchange of information, the presiding officer may open the floor to questions or general discussion. The presiding officer may question participants and permit the questioning of participants by other participants about any matter relating to that rule-making proceeding, including any prior written submissions made by those participants in that proceeding. No participant shall be required to answer any question.

Source: *Miss. Code Ann. § 25-43-2.104 (Rev. 2006)*.

Rule 2.5 Submissions and Records. Physical and Documentary Submissions presented by participants in an oral proceeding shall be submitted to the presiding officer. Such submissions become the property of the Secretary of State, part of the rulemaking record, and are subject to the Secretary of State's public records request procedure. The ~~Secretary of State's Office~~ SOS may record oral proceedings by stenographic or electronic means.

Source: *Miss. Code Ann. § 25-43-2.104 (Rev. 2006)*.

Part 2 Chapter 3: Declaratory Opinions

Rule 3.1 Application of Chapter. This chapter sets forth the Secretary of State's rules governing the form, content, and filing of requests for declaratory opinions, the procedural rights of persons in relation to the written requests, and the ~~Secretary of State's~~ SOS procedures regarding the disposition of requests as required by ~~Mississippi Code §~~ Section 25-43-2.103.

Source: *Miss. Code Ann.* § 25-43-2.104 (~~Rev. 2006~~).

Rule 3.2 Scope of Declaratory Opinions. The Secretary of State will issue declaratory opinions regarding the applicability to specified facts of:

- A. a statute administered or enforceable by the Secretary of State,
- B. a rule promulgated by the Secretary of State, or
- C. an order issued by the Secretary of State.

Source: *Miss. Code Ann.* § 25-43-2.104 (~~Rev. 2006~~).

Rule 3.3 Scope of Declaratory Opinion Request. A request must be limited to a single transaction or occurrence.

Source: *Miss. Code Ann.* § 25-43-2.104 (~~Rev. 2006~~).

Rule 3.4 How to Submit Requests. When a person with substantial interest, as required by Section 25-43-2.103 of the Administrative Procedures Act, requests a declaratory opinion, the person must submit a printed, typewritten, or legibly handwritten request.

- A. Each request must be submitted on 8-1/2" x 11" white paper.
- B. The request may be in the form of a letter addressed to the Secretary of State or in the form of a pleading as if filed with a court. It must also specify to which division of the ~~Secretary of State's Office~~ SOS the request is addressed.
- C. Each request must include the full name, telephone numbers, and mailing address of the requestor(s).
- D. All requests shall be signed by the person filing the request, unless represented by an attorney, in which case the attorney may sign the request.
- E. Each request must clearly state that it is a request for a declaratory opinion.

Source: *Miss. Code Ann.* § 25-43-2.104 (~~Rev. 2006~~).

Rule 3.5 Signature Attestation. Any party who signs the request shall attest that the request complies with the requirements set forth in these rules, including but not limited to a full, complete, and accurate statement of relevant facts and that there are no related proceedings pending before any agency, administrative, or judicial tribunal.

Source: *Miss. Code Ann. § 25-43-2.104 (Rev. 2006)*.

Rule 3.6 Request Content Requirement. Each request must contain the following:

- A. A clear identification of the statute, rule, or order at issue;
- B. The question for the declaratory opinion;
- C. A clear and concise statement of all facts relevant to the question presented;
- D. The identity of all other known persons involved in or impacted by the facts giving rise to the request including their relationship to the facts, and their name, mailing address, and telephone number;
- E. A statement sufficient to show that the requestor has a substantial interest in the subject matter of the request.

Source: *Miss. Code Ann. § 25-43-2.104 (Rev. 2006)*.

Rule 3.7 Reasons for Refusal of Declaratory Opinion Request. The Secretary of State may, for good cause, refuse to issue a declaratory opinion. The circumstances in which declaratory opinions will not be issued include, but are not necessarily limited to:

- A. The matter is outside the primary jurisdiction of the Secretary of State;
- B. Lack of clarity concerning the question presented;
- C. There is pending or anticipated litigation, administrative action or anticipated administrative action, or other adjudication which may either answer the question presented by the request or otherwise make an answer unnecessary;
- D. The statute, rule, or order on which a declaratory opinion is sought is clear and not in need of interpretation to answer the question presented by the request;
- E. The facts presented in the request are not sufficient to answer the question presented;
- F. The request fails to contain information required by these rules or the requestor failed to follow the procedure set forth in these rules;
- G. The request seeks to resolve issues which have become moot or are abstract or hypothetical such that the requestor is not substantially affected by the rule, statute, or order on which a declaratory opinion is sought;
- H. No controversy exists or is certain to arise which raises a question concerning the application of the statute, rule, or order;
- I. The question presented by the request concerns the legal validity of a statute, rule, or order;
- J. The request is not based upon facts calculated to aid in the planning of future conduct, but is, instead, based on past conduct in an effort to establish the effect of that conduct;
- K. No clear answer is determinable;
- L. The question presented by the request involves the application of a criminal

- statute or sets forth facts which may constitute a crime;
- M. The answer to the question presented would require the disclosure of information which is privileged or otherwise protected by law from disclosure;
 - N. The question is currently the subject of an Attorney General's opinion request;
 - O. The question has been answered by an Attorney General's opinion;
 - P. One or more requestors have standing to seek an Attorney General's opinion on the proffered question;
 - Q. A similar request is pending before this agency, or any other agency, or a proceeding is pending on the same subject matter before any agency, administrative or judicial tribunal, or where such an opinion would constitute the unauthorized practice of law; or
 - R. The question involves eligibility for a license, permit, certificate or other approval by the Secretary of State or some other agency and there is a statutory or regulatory application process by which eligibility for said license, permit, or certificate or other approval may be determined.

Source: *Miss. Code Ann.* § 25-43-2.104 (~~Rev. 2006~~).

Rule 3.8 Agency Response. Within forty-five (45) days after the receipt of a request for a declaratory opinion which complies with the requirements of these rules, the Secretary of State shall, in writing:

- A. Issue an opinion declaring the applicability of the statute, rule, or order to the specified circumstances;
- B. Agree to issue a declaratory opinion by a specified time but no later than ninety (90) days after receipt of the written request; or
- C. Decline to issue a declaratory opinion, stating the reasons for its action.

The forty-five (45) day period shall begin on the first business day on or after which the request is received by the Secretary of State.

Source: *Miss. Code Ann.* § 25-43-2.104 (~~Rev. 2006~~).

Rule 3.9 Availability of Declaratory Opinions and Requests for Opinions. Declaratory opinions and requests for declaratory opinions shall be available for public inspection and copying at the expense of the viewer during normal business hours. All declaratory opinions and requests shall be indexed by requestor name, subject, and date of issue. Declaratory opinions and requests which contain information which is confidential or exempt from disclosure under the Mississippi Public Records Act or other laws shall be exempt from this requirement and shall remain confidential.

Source: *Miss. Code Ann.* § 25-43-2.104 (Rev. 2006).

Part 2 Chapter 4: Public Records Procedure: In compliance with the Mississippi Public Records Act of 1983, Mississippi Code Section 25-61-1, *et. seq.* and the Mississippi Ethics Commission's Model for Public Records Rules, this regulation is adopted by the Office of the Secretary of State ("SOS"). All records and portions of records not exempt from disclosure will be made available in accordance with the procedures outlined below.

Rule 4.1 Scope. This rule establishes procedures and fees associated with all public requests for copies and/or inspection of public documents.

A. Submission of Requests.

1. All requests for information should be submitted in writing to:

Office of the ~~Mississippi~~ Secretary of State
~~e/o Assistant Secretary of State of Communications~~
Attention: Public Records Office
P.O. Box 136 (mailing address)
401 Mississippi Street (physical address)
Jackson, MS 39201
(601)359-1350 (office)/(601)576-2570 (facsimile)
PublicRecords@sos.ms.gov

2. Requests may be mailed, emailed to publicrecords@sos.ms.gov, or hand delivered to the physical address listed above.
3. No verbal or telephone request can be accepted without written request received in accordance with subparagraphs 1 or 2 above.
4. The request should specifically outline the records that are being requested, provide the name of the requestor, address of the requestor, email (if applicable) and telephone number of the requesting entity/individual and must be signed by the requesting party.
5. If a request is not directed through the channels provided in the manner described above, official receipt of the public records request may be delayed as it may take additional time to route your request to the correct SOS division for processing.

- B. Timetable for processing.** ~~All document requests will be approved or denied within seven (7) business days after the request is received. In the event of a denial for all or part of the request, the Office of the Secretary of State will provide an explanation of the denial to the requestor in writing. If the requested information is unable to be produced by the seventh day after the request is made, the Secretary of State's Office will provide a written explanation regarding why the document cannot be produced during that timeframe. Unless there is a mutual agreement of the parties, in no case shall the production of the requested records, after timely payment and unless otherwise exempt, be any later than fourteen (14) working days from the receipt of the request. Assemblage of documents will not begin until timely payment is received. Delay by the~~

requestor in the payment of an estimated fee may result in the delay of delivery of the requested documents.

The SOS will strive to respond to each request within seven (7) working days after the request is received. An acknowledgement of the request will be made in one or more of the following ways: 1) provide a reasonable cost estimate associated with the requested records, 2) submission of responsive records or make responsive records available for inspection/copying, 3) provide a reasonable estimate of when responsive records will be available, 4) if the request is unclear or does not sufficiently identify the requested records, a request for clarification from the requestor, or 5) deny the request. In the event of a denial for all or part of the request, the SOS will provide an explanation of the denial to the requestor in writing.

The day the request was initially received by the SOS will not be included in the seven (7) working day response period referenced above, and the first day of the response period will begin on the next working day. If the requested information is unable to be produced by the seventh (7th) working day after the request is made, the SOS will provide a written explanation (which may be provided by email) to the requestor indicating why the document cannot be produced during that timeframe. Compilation of documents will not begin until timely payment is received. Delay by the requestor in the payment of an estimated fee may result in the delay of delivery of the requested documents. The SOS will provide assistance to the requestor to the best of its ability; to ensure that public records are protected from damage or disorganization; and to prevent the fulfillment of requests from causing excessive interference with essential functions of the SOS.

Please note that the following types of public records requests usually require additional research and staff time, which can result in significant costs associated with fulfilling the request, as well as an increase in the number of days of response time: (1) requests for very large volumes of material (2) requests that are overly broad or do not reasonably describe the records being requested (3) requests that are unspecific in scope (4) requests for information that have already been archived (5) requests for documents that are unusual in size.

During a state of emergency, the timetable for processing may be delayed. In that instance, public records requests will be handled as soon as practicably possible.

- C. **Exempt Documents.** ~~Some documents or portions of documents are exempt from publication or subject to redaction including, but not limited to, certain sensitive personal information, including social security numbers and dates of birth; certain confidential commercial, proprietary, or financial information; mailing addresses, email addresses and telephone numbers of qualifying candidates; residential addresses of certain individuals; personnel records; attorney communications; and work products of attorneys. This is not an exhaustive list. Records subject to redaction or exemption will be reviewed on a case by case basis.~~

The Public Records Act, as well as other statutes and court decisions, provide that a number of records are exempt from public inspection and copying. In addition, other

statutes, or rules of law, such as various privacy restrictions, may prohibit disclosure. As stated above, some records are exempt from disclosure, in whole or in part, and may require redaction of information, which may include, but is not limited to, certain sensitive personal information, including social security numbers and dates of birth; certain confidential commercial, proprietary, or financial information; mailing addresses, email addresses and telephone numbers of qualifying candidates; residential addresses of certain individuals; personnel records; attorney communications; and work products of attorneys. This is not an exhaustive list. Records subject to redaction or exemption will be reviewed on a case-by-case basis. Requestors should be aware of the following exemptions, outside of the Public Records Act, that restrict the availability of some documents possessed by the SOS for inspection and copying (this is also not intended to be an exhaustive list):

1. Appraisal records exempt from access, see § 31-1-27;
2. Attorney work product and attorney-client privilege, examination, exemption see § 25-1-102;
3. Charitable organizations, registration information, exemption from public access, see § 79-11-527;
4. Environmental self-evaluation reports, public records act, exemption, see § 49-2-71;
5. Individual tax records in possession of public body, exemption from public access requirements, see § 27-3-77;
6. Licensure application and examination records, exemption from Public Records Act, see § 73-52-1;
7. Personnel files exempt from examination, see § 25-1-100;
8. Public records and trade secrets, proprietary commercial and financial information, exemption from public access, see § 79-23-1;
9. Records exempt from public access, see § 39-7-41;
10. Social security numbers; disclosure safeguards, see § 25-1-111.

D. Third Party Information. ~~Records furnished to the Office of the Secretary of State by third parties which contain trade secrets or confidential commercial or financial information shall not be subject to inspection, examination, copying or reproduction until the third party has been advised that the documents will be released. Further, no third party information will be released if a third party obtains a court order prohibiting the same. The requestor will be notified of any court orders that prohibit the release of the requested information.~~

1. Confidential or exemption claims. When any person files or submits documents with the SOS which the filer contends are exempt from disclosure under the Public Records Act, the filer shall provide a written statement at the time of filing which shall describe the documents filed and which shall fully explain why the documents are designated as exempt from disclosure and must specifically cite any statute or other legal authority in support of such designation. Such written statement shall itself be a public record subject to disclosure.

2. Clear Designation. Any document filed with the SOS which contains trade secrets or confidential information or financial information subject to the protection of any applicable law or court decision shall be clearly designated as such by the filer on its face and an accompanying cover letter at the time of filing and shall be placed in an envelope other than white. Each page of each document shall be marked confidential. Upon request to inspect or copy any document so designated, the SOS shall notify the person who filed the document of the request. Twenty-one (21) days after such notice, the document will be made available for public inspection or copying unless the filer shall have obtained a court order protecting such records as confidential pursuant to Miss. Code Ann. Section 25-61-9.
3. Prior to Filing. Any person filing documents with the SOS shall, prior to filing, redact from the documents any social security numbers, account numbers or dates of birth not required to be listed. The SOS shall determine on a case-by-case basis whether similar information may be redacted by the filer to prevent identity theft. In no event will the SOS bear any responsibility for a filer's failure to redact such information which leads to identity theft or other crime or loss.

E. **Assessment of eCosts to the Requestor.** ~~Payment for information requested must be made in advance receipt of documents and must be sufficient to cover the actual costs for the Office of the Secretary of State to furnish the information. Such costs include, but are not limited to, staff time to evaluate the request, to retrieve any relevant files, to organize the information, to notify any Third Parties, to develop a cost estimate and schedule, to reproduce the material, and to deliver the information requested.~~ Payment for information requested must be made in advance of receipt of documents and must be sufficient to cover the actual costs for the SOS to furnish the information. Such costs include, but are not limited to, staff time to evaluate the request (including costs associated with legal advice by outside attorneys), to retrieve any relevant files, to organize the information, to notify any Third Parties, to develop a cost estimate and schedule, to monitor and/or assist inspection of records, to reproduce the material (if necessary), and to deliver the responsive records.

1. **No cash, credit or debit cards, or personal checks can be accepted.** Money orders, certified checks, or corporate checks are accepted.
2. ~~The Office of the Secretary of State~~ SOS will notify the requestor of the costs to obtain the information prior to processing the request. ~~Assemblage~~ Compilation of documents will not begin until timely payment is received. By delaying the payment of the estimated fee, the requestor acknowledges there may be a delay in the delivery of the requested documents. If timely payment is not received within thirty (30) days, the ~~Office of the Secretary of State~~ SOS will proceed no further with the request. If, at a later date, the requestor decides to proceed with the request, he/she should submit a new request. No request will be processed until after payment is received and funds are verified.
3. If the actual cost is higher than the estimate, the requestor will be required to pay the difference before receiving the information. If the actual cost is lower

than the estimate, the SOS will refund the difference.

- F. **Requests for Standard Documents.** ~~The Office of the Secretary of State SOS~~ has established a Schedule of Standard Documents and Fees for frequently requested information. ~~The list of these documents and associated costs is provided in the table that follows~~ are provided in Part 2 Chapter 5 of this regulation. Should a requestor require a paper copy of these documents, he/she must initiate a request as described in this document and submit the fee listed on the Schedule of Standard Documents.
- G. **Requests for Special Documents.** Upon receipt of a request for any document not included on the Schedule of Standard Documents and Fees, the staff of the ~~Office of the Secretary of State SOS~~ will evaluate the request, research the files and other sources to determine the availability and format in which the information is stored, and estimate the actual costs to furnish the requested information.
1. An estimated cost will be provided to the requestor based on the volume of information, the format in which the information is stored and requested, whether or not third-party information has been requested, and whether any fees are applied as set forth in Rule 5.2, *General Fees*. The requestor may submit payment for processing of the request, amend the request, and/or withdraw the request. The requestor should submit written notice of his/her intent to either proceed or withdraw the request.
- H. **Requests for Document Inspections.** Inspection of public records must be conducted at the SOS and during normal hours of operation (Monday through Friday from 8:00 a.m. to 5:00 p.m., excluding state holidays). Records must be inspected at the SOS and no requestor, or his designee, may remove a public record from the SOS designated inspection area or disassemble or alter any public record. The requestor shall indicate which records he/she wishes to copy. The time, place and manner of inspection and copying of records will not be allowed to interfere with other essential duties of the SOS. The requestor will be billed for the total amount of time expended by employees of the ~~Office of the Secretary of State SOS~~ assisting with and/or monitoring the inspection of documents. Additional fees incident to document production may be assessed.
- I. **Public Information via the Internet.** Some information pertaining to the ~~Office of the Secretary of State SOS~~ is available free of charge on the ~~internet SOS website~~ at www.sos.ms.gov. Requestors are encouraged to view the documents available on the SOS website prior to submitting a public records request.
- J. **Closure of a Request.** If a requestor either withdraws his/her request, fails to fulfill his/her obligations to inspect the records or fails to pay the deposit/cost estimate or payment in full for the requested records within thirty (30) calendar days of the submission of the request, the SOS will close the request and notify the requestor of such closure via email.
- K. **Requests for Electronic Records.** The process for requesting electronic public records is the same as provided for requesting paper public records. When a requestor requests records in an electronic format, the SOS will provide the nonexempt records or portions of such records that are reasonably locatable in an electronic format that is used by the public body and is generally commercially available, or in a format that is reasonably translatable from the format in which the public body keeps the record.

Costs associated with providing electronic records are governed by Part 2 Chapter 5 of this regulation. With the consent of the requestor, the SOS may provide customized access to a database if the record is not reasonably locatable or not reasonably translatable into the format requested. The SOS may charge the actual cost for such customized access.

- L. **Later Discovered Documents.** If, after the SOS has informed the requestor that it has provided all available records, the SOS becomes aware of additional responsive documents existing at the time of the request, it will promptly inform the requestor of the additional documents and will provide them to the requestor.
- M. **Records of Other Governmental Agencies or Entities.** In instances where a public records request is submitted to the SOS seeking records that are primarily the responsibility of another governmental agency/entity, the following procedures will be followed:
 - 1. If a request is submitted to the SOS for current records that are the primary responsibility of another governmental agency/entity, SOS will refer the request to the pertinent governmental agency/entity for appropriate response.
 - 2. SOS will advise the requestor that the application has been forwarded to the responsible governmental agency/entity and, unless indicated otherwise by the requestor, will consider the request withdrawn once forwarded and close the public records request.
 - 3. If, after having been notified that the SOS is not the agency primarily responsible for the records sought, the requestor desires to continue with the filing of a public records request to the SOS for any responsive records it may possess, the SOS will process the request accordingly.

Source: *Miss. Code Ann. § 25-61-1, et. seq. (Rev. 2010).*

Rule 4.2 Review of Denials.

- A. Review by the Ethics Commission. Pursuant to Miss. Code Ann. § 25-61-13, if the SOS denies a requestor access to public records, the requestor may ask the Ethics Commission to review the matter. The Ethics Commission has adopted rules on such requests. They may be found at www.ethics.state.ms.us.
- B. Judicial review. Any person whose request for public records was denied may institute a suit in the chancery court of Hinds County, seeking to reverse the denial, as set forth in Miss. Code Ann. § 25-61-13.

Source: *Miss. Code Ann. § 25-61-1, et. seq*

Part 2 Chapter 5: Fees

Rule 5.1 Standard Documents and Fees.*

- A. ~~\$100 set up fee for all electronic data SEMS requests plus the following additional fees~~
 - 1. ~~Statewide voter list: \$1,000~~
 - 2. ~~Congressional district, Supreme Court district, or Court of Appeals district: \$500~~
 - 3. ~~State legislative district, Judicial district, or comparable office involving more than one county that does not fall into subsection 2 above: \$250~~
 - 4. ~~County, county district, municipal, or municipal district office: \$125~~
- A. For each application filed for the purchase of tax-forfeited property: \$2.50
- B. For copy of patent: \$2.00
- C. For certificate from 1875 to date, certifying each and every sale and disposition by the state: \$5.00
- D. For certificate of land records information: \$2.00
- E. For copy of any land record, not certified: \$1.00
- F. Photostat copies of plats and field notes, as follows:
 - 1. Size of Sheet Per Page
 - a. 8 ½ " x 11" and under: \$0.50
 - b. Over 8 ½ " x 11" and not more than 8 ½ " x 14": \$0.60
 - c. Over 8 ½ " x 14" and not more than 18" x 24": \$1.20
 - d. All over 18" x 24": \$2.00
- G. For certified copy of a business filing. \$25.00

* Costs above reflect charges for standard documents stored on-site or electronically. Documents requiring offsite storage search and delivery may incur additional costs.

Source: *Miss. Admin. Code* 1-10-7.2; *Miss. Code Ann.* § 25-7-85 (~~Rev. 2010~~); § 25-61-7 (~~Supp. 2017~~).

Rule 5.2 General Fees.

- A. Copies of other materials produced on 8 ½" x 11" cost \$0.15 per page (additional costs may apply for larger or special paper).
- B. A certified copy of a requested document costs \$1.00.
- C. Additional fees may apply for searching, researching, reviewing and conducting a legal review of the requested documents, and redacting information, if necessary. Charges shall be based upon the hourly salary of the lowest paid employee of the SOS qualified and available to do the job.
- D. All other costs or fees which would be incurred in responding to a request, including but not limited to postage, UPS, Federal Express, temporary agency personnel, and offsite

storage search and delivery, will be charged at the cost billed to the ~~agency~~ SOS.

- E. If electronic copies are requested and the documents are available electronically, copies will be distributed to the requestor on an electronic disc or by other available electronic format. Search and/or research costs associated with the request may apply. See Rule 4.1(K) above.
- F. The Agency may waive any fee described herein at the discretion of the Secretary. There will be no charge associated with emailing responsive records to a requestor unless another cost applies such as a scanning fee or system costs allowed under Section 25-61-7(2) of the Miss. Code.
- G. Charges for searching, reviewing, and redacting are limited to the actual cost of searching for and reviewing and, if necessary, redacting exempt information from public records. The cost shall be based upon the hourly rate of compensation for the lowest paid agency employee qualified to perform the task, which shall be multiplied by the actual time to complete the task.
- H. Official representatives of public bodies, as defined in the Public Records Act, shall be entitled to reasonable copies of such records at no charge.

Source: *Miss. Code Ann. § 25-61-7* (~~Supp. 2017~~).

Rule 5.3 Repeal of previous rules and regulations.

- A. All previously promulgated rules or regulations which are inconsistent with any provisions set forth above are hereby repealed.
- B. Conflicts between this regulation and existing statutes related to access to Agency records and fees charged by individual work areas of the Agency shall be resolved in favor of the existing statute.

Source: *Miss. Code Ann. § 25-61-7, et. seq.* (Rev. 2010).

Rule 5.4 Review of denials.

- A. Review by the Mississippi Ethics Commission. Pursuant to Section 25-61-13 of the Miss. Code, if the SOS denies a requestor access to public records, the requestor may ask the Mississippi Ethics Commission to review the matter. The Mississippi Ethics Commission has adopted rules on such requests. Those rules may be found at www.ethics.ms.gov.
- B. Judicial review. Any person whose request for public records was denied may institute a suit in the chancery court of Hinds County, seeking to reverse the denial, as set forth in Section 25-61-13.

Source: *Miss. Code Ann. § 25-61-7, et. seq.*

